

Application No. 10/687,289  
Response dated January 27, 2006  
Response to Office Action dated September 27, 2005

### **REMARKS/ARGUMENTS**

Claims 1 - 37 remain pending in the application. Claims 1 - 37 stand rejected. Through this response, claims have been amended. No new matter has been introduced into the application. As explained in more detail below, the Applicants submit that all claims are now in condition for allowance and respectfully request such action.

#### **Interview**

The Applicants' representative would like to express his appreciation for the time taken by the examiner to discuss this case. During the interview, the pending claims were discussed relative to the prior art of record.

#### **Rejection under 35 U.S.C. §102**

Claims 1-14, 23-31 and 35-36 are rejected under 35 USC §102(b) as being anticipated by Schulman et al (US 6,208,894). The Applicants have amended the claims to further clarify what is being claimed. The amendments are supported by the specification as originally filed, *e.g.*, Paragraphs 179- 185.

The Office Action cites the Schulman reference as disclosing various modes of operation wherein the modes of operation relate to communications between components of the medical device system. As stated previously, these "mode of operation" of Schulman appear to merely identify typological details of the medical device system and not any mode of operation. To further clarify this distinction over Schulman, however, the Applicants have amended the claims to relate to operation of one or more "treatment therapy modes." This claimed feature is directed to modes of operation relating to the treatment therapy (*e.g.*, open-loop and closed-loop as

Application No. 10/687,289  
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recited in claims 15 and 37) and not merely communications between components as identified in Schulman.

Moreover, each of the claims recites that the particular treatment therapy mode to be used may be determined by whether or not an external component is coupled to the implanted component. For example, claim 1 has been amended to recite "wherein the implantable component is configured [multi-modal medical device system continues] to operate with the first treatment therapy mode [of operation] when the external component is decoupled from the communications channel and to operate with the second treatment therapy mode when the external component is coupled to the communications channel."

In view of the Applicant's amendment and the absence of an implantable device capable of multi-modal operation being taught or otherwise disclosed in the Schulman reference, Applicants request reconsideration of claims 1 – 14, 23 – 31 and 35 – 36 and withdrawal of the rejection.

**Rejections under 35 U.S.C. §103**

Claims 15 and 37 are rejected under 35 USC §103(a) as being unpatentable over Schulman, et al. (US 6,208,894). The Office Action deemed the Applicants' arguments as invalid based on an inadvertent mis-quote of a prior Office Action. However, the mis-quote had no bearing on the point of the Applicants' argument. Applicants therefore respectfully request reconsideration.

In particular, Schulman merely teaches continuing supporting whatever feature was operating before connection degrades. For example, if Schulman's device were programmed to operate with closed-loop therapy, the device will continue to operate in the closed-loop therapy

Application No. 10/687,289  
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after the connection degrades. However, Schulman does not even suggest the claim element "if the external component and the implantable component are decoupled, continuing to operate the medical device system with the open-loop mode of the treatment therapy" as included in claim 37. Moreover, even if Schulman does disclose a clinician's programmer that is capable of programming the SCU operation, the Schulman still does not disclose or otherwise suggest an implantable device being configured for multi-modal operation as presented in claims 13 (from which claim 15 depends) and 37. The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection.

Similarly, the Office Action ignored the Applicants' response relating to the rejection of claims 16 – 19 and 32 – 33 (which remain rejected under 35 USC §103(a) as being unpatentable over Schulman, et al. (US 6,208,894) in view of Fabian, et al. (US 6,735,479)). Applicants therefore respectfully request reconsideration.

Specifically, claims 16-19 and 32-33 ultimately depend from claim 13. Moreover, Fabian does not make up for the deficiencies of Schulman. Thus, claims 16-19 and 32-33 are patentable for at least the above reasons. The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection.

Claims 20 and 34 are rejected under 35 USC §103(a) as being unpatentable over Schulman, et al. (US 6,208,894) in view of Massicotte, et al. (US Patent Publication 20040068195). Claims 20 and 24 ultimately depend from claim 13. Moreover, Massicotte does not make for the deficiencies of Schulman. Thus, claims 20 and 34 are patentable for at least the above reasons. The Applicants request reconsideration of claims 20 and 34.

Claims 21-22 are rejected under 35 USC §103(a) as being unpatentable over Schulman, et al. (US 6,208,894) in view of Kaib (US 6,169,387). Claims 21 and 22 ultimately depend from

Application No. 10/687,289  
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claim 13. Moreover, Massicotte does not make for the deficiencies of Schulman. Thus, claims 21-22 are patentable for at least the above reasons. The Applicants request reconsideration of claims 21-22. Moreover, the Office Action alleges that Kaib discloses an alarming system configured to activate upon the disconnecting of an implanted component. An aspect of the present invention, however, is directed to an implantable device capable of different modes of operation depending on connections with external components. For example, as disclosed in the application, the medical device system supports a first mode of operation and a second mode of operation that are associated with the treatment therapy. The medical device system may support both when the implantable component and the external component are coupled, thus exchanging data. If the external component is decoupled, the implantable component continues to support the first feature. (See Page 3, paragraph 7). In view of the fact that neither Kaib nor Schulman disclose or suggest the claimed invention, the Applicants respectfully request reconsideration and withdrawal of the rejection.

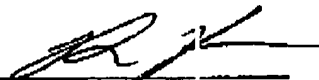
### CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Application No. 10/687,289  
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Respectfully submitted,

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